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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/656,918

09/05/2003

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TAV-2044

8375

7590 01/22/2010
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EXAMINER

ROE, JESSEE RANDALL

ART UNIT

PAPER NUMBER

1793

MAIL DATE

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: ROBIN M. FORBES JONES, HENRY E. LIPPARD, TIMOTHY
A. STEPHENSON, ROBERT J. MYERS and DAVID J. BRADLEY

Application No. 10/656,918
Technology Center 1700

Mailed: January 22, 2010

Before Quita S. Gould, *Supervisory Paralegal Specialist*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on January 19, 2010. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

APPEAL BRIEF, SUMMARY OF CLAIMED SUBJECT MATTER

Appellant filed an Appeal Brief dated July 2, 2009. The Appeal Brief is not in compliance with 37 C.F.R. § 41.37(c) effective September 13, 2004.

According to 37 C.F.R. § 41.37(c)(v), an Appeal Brief must include the following:

(v) *Summary Of Claimed Subject Matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which must refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of 37 CFR 41.37(c)(1)(vii), every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

The “Summary of claimed subject matter” appearing on page 8 of the Appeal Brief filed July 2, 2009, is deficient because it does not refer to the specification for independent claims 1 and 32. Correction is required.

MPEP § 1205.03 states in part:

(B) When the Office holds the brief to be defective solely due to appellant’s failure to provide a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v), an entire new brief need not, and should not, be filed. Rather, a paper providing a summary of the claimed subject matter

as required by 37 CFR 41.37(c)(1)(v) will suffice.
Failure to timely respond to the Office's
requirement will result in dismissal of the appeal.
See MPEP § 1215.04 and § 711.02(b).

CONCLUSION

Accordingly, it is ORDERED that the application is returned to the
Examiner to:

- 1) hold the Appeal Brief filed July 2, 2009, defective, as required by
37 CFR § 41.37(d);
- 2) notify the Appellant to submit a "paper" which corrects the Appeal
Brief's Summary of Claimed Subject Matter under 37 CFR §41.37(c)(1)(v);
- 3) acknowledge and consider any "paper" submitted by Appellant to
correct the Appeal Brief; and
- 4) for such further action as may be required.

If there are any questions pertaining to this Order, please contact the
Board of Patent Appeals and Interferences at 571-272-9797.

QSG/saw

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